



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2025-0060; FRL-12608-01-R9]

### Air Plan Approval; California; Eastern Kern Air Pollution Control District; Stationary Combustion Turbines

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to the Eastern Kern Air Pollution Control District (EKAPCD or “District”) portion of the California State Implementation Plan (SIP). This revision concerns emissions of oxides of nitrogen (NO<sub>x</sub>) from stationary gas turbines. We are proposing to approve a local rule to regulate these emission sources under the Clean Air Act (CAA or “Act”). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Comments must be received on or before [**Insert date 30 days after date of publication in the *FEDERAL REGISTER***].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2025-0060 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional

submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** La Kenya Evans-Hopper, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; telephone number: (415) 972-3245; email address: [evanshopper.lakenya@epa.gov](mailto:evanshopper.lakenya@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us,” and “our” refer to the EPA.

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**I. The State’s Submittal**

*A. What rule did the State submit?*

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the local air agency and submitted to the EPA by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED RULE

Local Agency	Rule #	Rule Title	Amended	Submitted
EKAPCD	425	Stationary Gas Turbines (Oxides of Nitrogen)	11/13/2024	12/12/2024

The EPA has reviewed the SIP submittal containing the documents listed in Table 1 and finds that it fulfills the completeness criteria in 40 CFR part 51, appendix V.

*B. Are there other versions of this rule?*

On June 15, 2023, we approved an earlier version of Rule 425 into the SIP in a limited approval and limited disapproval action (88 FR 39182). The EKAPCD adopted revisions to the SIP-approved version on November 13, 2024, and CARB submitted them to us on December 12, 2024. If we take final action to approve the November 13, 2024 version of Rule 425, this version will replace the previously approved version of this rule in the SIP.

*C. What is the purpose of the submitted rule revision?*

Emissions of NO<sub>x</sub> contribute to the production of ground-level ozone, smog, and particulate matter (PM), which harm human health and the environment. Section 110(a) of the CAA requires states to submit plans that provide for the implementation, maintenance, and enforcement of the National Air Ambient Quality Standards (NAAQS). In addition, CAA sections 182(b)(2) and (f) in combination require that SIPs for ozone nonattainment areas classified as “Moderate” or higher implement Reasonably Available Control Technology (RACT) for any category of sources covered by a Control Techniques Guidelines document and for any major stationary source of volatile organic compounds (VOCs) or NO<sub>x</sub>. The EKAPCD has jurisdiction over the Kern County (Eastern Kern) ozone nonattainment area. The area is classified as “Moderate” for the 1997 8-hour ozone NAAQS, “Severe-15” for the 2008 8-hour ozone NAAQS, and “Serious” for the 2015 8-hour ozone NAAQS.<sup>1</sup> Therefore, EKAPCD must implement RACT in this ozone nonattainment area consistent with CAA sections 182(b)(2) and 182(f). The District relies on Rule 425 to establish RACT-level controls for combustion turbines

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<sup>1</sup> See 40 CFR 81.305. For the 2008 ozone NAAQS, EKAPCD’s voluntary reclassification to “Serious” from “Moderate” was finalized on July 5, 2018 (83 FR 31334) and the voluntary reclassification to “Severe-15” was finalized on June 7, 2021 (86 FR 30204). EKAPCD’s voluntary reclassification to “Serious” for the 2015 ozone NAAQS was finalized on October 28, 2021 (86 FR 59648).

at major sources of NO<sub>x</sub> within the ozone nonattainment area.

In our June 15, 2023 limited approval and limited disapproval of the 2018 SIP submission of Rule 425 the EPA evaluated the RACT stringency of the combustion turbine regulations established by Rule 425 and the limited disapproval portion of that action started a sanctions clock based on the deficient portion of that rule. The current submission was submitted to address that deficiency.

Rule 425 controls emissions of NO<sub>x</sub> from stationary gas turbines (units) equal to or greater than 0.88 megawatts (MW) operating in the EKAPCD. The EPA's 2023 limited approval and limited disapproval of Rule 425 found that the rule established RACT level controls for all of the sources covered by the rule, except for the Westinghouse W251B10 unit with a separately specified limit. The current submission of Rule 425 is intended to cure the deficiencies related to this unit. The EPA's technical support document (TSD) has more information about this rule.

## **II. The EPA's Evaluation and Action**

### *A. How is the EPA evaluating the rule?*

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), and must not interfere with applicable requirements concerning attainment, reasonable further progress, or other CAA requirements (see CAA section 110(1)). As explained above, EKAPCD must implement RACT in this area pursuant to CAA sections 182(b)(2) and (f), and the District relies on Rule 425 to establish RACT-level controls for combustion turbines at major sources of NO<sub>x</sub> within the Eastern Kern ozone nonattainment area. In our June 15, 2023 action, we found that Rule 425 was largely consistent with the relevant CAA requirements. However, in that final rulemaking, we identified certain deficiencies that prevented full approval of Rule 425. This proposed rule focuses on the deficiencies identified in that June 15, 2023 limited approval and limited disapproval and proposes to determine that the revisions to Rule 425 correct the previous deficiencies.

Guidance and policy documents that we used to evaluate enforceability, interference

under CAA section 110(l), and rule stringency requirements for the applicable criteria pollutants include the following:

1. “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
2. “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9, August 21, 2001 (the Little Bluebook).
3. “NO<sub>x</sub> Emissions from Stationary Gas Turbines,” EPA 453/R-93-007, January 1993.
4. “Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for the Control of Oxides of Nitrogen from Stationary Gas Turbines,” CARB, May 18, 1992.

*B. Does the rule meet the evaluation criteria?*

Based on our evaluation, this rule meets CAA requirements and is consistent with relevant guidance regarding enforceability, RACT, and SIP revisions. In our June 15, 2023 limited approval and limited disapproval we found that although the emission limitations in the 2018 version of the rule were generally consistent with the RACT requirement, a relaxation of the emission limitation for a Westinghouse W251B10 NO<sub>x</sub> unit was higher than the limits applicable to such units in the SIP-approved version of Rule 425 at that time and not accompanied with support demonstrating that it met the RACT requirement. The relaxation in the rule was also not accompanied by an analysis demonstrating compliance with the section 110(l) prohibition on SIP modifications that would interfere with attainment, reasonable further progress, or other requirements of the Act. The deficiencies with the NO<sub>x</sub> emission limitation for the Westinghouse W251B10 unit were the only identified deficiencies that were the basis for our limited disapproval. Our proposed approval of the present SIP submission of Rule 425 does not otherwise alter our previous determination that Rule 425 establishes RACT-level controls for all sources subject to the rule, except for the identified deficiencies related to the Westinghouse W251B10 unit. As a result, in this action, we focus our analysis primarily on the revisions that

have been made to the rule and supporting analysis to cure the previously identified deficiency and serve as the basis for now proposing to approve the rule.

The revised version of Rule 425 lowers the Westinghouse W251B10 NO<sub>x</sub> gaseous emission limitation from 25 parts per million by volume (ppmv) to 20 ppmv.<sup>2</sup> As described in our 2023 action,<sup>3</sup> the NO<sub>x</sub> emission limitations from the 1993 version of Rule 425 were calculated as a function of the thermal efficiency (EFF), lower heating value, and the higher heating value of the unit depending on fuel type. The gaseous limit in the 1993 version equated to a 20 ppmv emission limitation when operating at an EFF of 25 or below, and scaled up with higher EFF values (for example, the ppmv limit associated with an EFF of 31.25 was 25 ppmv). The 25 ppmv limit in the 2018 version of the rule resulted in a weakening of the standard under certain operating conditions when compared to the 1993 version of Rule 425. This weakening, without sufficient explanation, was the basis of our limited disapproval of the 2018 version of the rule in 2023. The submitted version that the EPA is proposing action on now tightens this limit to 20 ppmv in all operating conditions. This change addresses the previous section 110(l) issue that was identified in our 2023 action by setting a limit that is as strong as, and in some operating conditions stronger than, the limit in the 1993 version of the rule. Moreover, because the new limit of 20 ppmv is strictly lower than the 25 ppmv limit contained in the 2018 version, the new rule is stronger than that version as well.

In addition, the EKAPCD provided facility operating and retrofit cost information to demonstrate that a lower limit would not be reasonably available for this unit.<sup>4</sup> The EPA's evaluation of this information indicates that retrofitting the Westinghouse W251B10 turbine with selective catalytic reduction would likely cost \$13,000 or more per ton of NO<sub>x</sub> reductions.<sup>5</sup> This

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<sup>2</sup> The District also removed the liquid fuel limit for the Westinghouse W251B10 turbine, because the turbine does not operate on liquid fuel and is only approved to run on gaseous fuel.

<sup>3</sup> "Technical Support Document for EPA's Rulemaking for the California State Implementation Plan; Eastern Kern Air Pollution Control District Rule 425 Stationary Gas Turbines (Oxides of Nitrogen)," February 2023, p.7.

<sup>4</sup> Response to Eastern Kern Air Pollution Control District Request regarding the SIP and Rule 425 Modification, sent on January 3, 2024 (Response Document).

<sup>5</sup> This value is calculated by reproducing the SCR cost per ton calculations found in Attachment 6 of the Response

is not an economically feasible cost for the purpose of the RACT requirement. For this reason, as well as additional support and analysis that is found in our TSD, the EPA proposes that the NO<sub>x</sub> limit of 20 ppmv represents a RACT level of control for the Westinghouse W251B10 turbine and corrects the previously identified deficiency. The revised rule also included an administrative update to add reporting requirements where performance test data, excess emissions, and continuous monitoring system performance data must be submitted to the District every six months. Our evaluation of the remainder of the rule remains unchanged from our 2023 analysis, and we propose to find that the rule establishes RACT level controls.

Considering the most recent revisions to Rule 425 as submitted to EPA, we propose to fully approve Rule 425 as meeting all applicable CAA requirements and consistent with relevant guidance regarding enforceability, RACT, and SIP revisions.

### *C. Proposed action and public comment*

As authorized in section 110(k)(3) of the Act, the EPA proposes to approve the submitted rule because it fulfills all relevant requirements. If we take final action to approve the submitted rule, our final action will incorporate this rule into the federally enforceable SIP. We will accept comments from the public on this proposal until [**Insert date 30 days after date of publication in the *FEDERAL REGISTER***].

If we finalize this rulemaking as proposed, EKAPCD will have corrected the deficiencies identified in our prior June 15, 2023 limited disapproval, and all associated sanctions and Federal implementation plan clocks would be permanently stopped, and any already applied sanctions would be permanently lifted. We are concurrently making an interim final determination to stay and defer the CAA section 179 sanctions associated with our June 15, 2023 limited disapproval of Rule 425. Consistent with our order of sanction regulations,<sup>6</sup> this determination is based on this proposed approval of a SIP revision to resolve the deficiencies that were the basis of our

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Document, sent on January 3, 2024, but substituting more conservative cost and emission values, found elsewhere in the Response Document. The details of this calculation are provided in the TSD.

<sup>6</sup> See 40 CFR 52.31.

June 15, 2023 limited disapproval.

### **III. Incorporation by Reference**

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference Eastern Kern Air Pollution Control District, Rule 425, Stationary Gas Turbines (Oxides of Nitrogen), amended on November 13, 2024 that regulates NO<sub>x</sub> from stationary gas turbine engines equal to or greater than 0.88 MW. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L.104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it proposes to approve a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: **June 2, 2025**.

**Joshua F. W. Cook,**  
*Regional Administrator, Region IX.*

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